



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



July 23, 2025

Lauren Clark, Assistant Planner
City of Calistoga
1232 Washington Street
Calistoga, CA 94515
LClark@calistogaca.gov

Subject: Kortum Ranch Development Project, Draft Environmental Impact Report,
SCH No. 2023090349, City of Calistoga, Napa County

Dear Ms. Clark:

The California Department of Fish and Wildlife (CDFW) received a draft Environmental Impact Report (EIR) from the City of Calistoga (City) for the Kortum Ranch Development Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines. CDFW previously provided comments in response to the Notice of Preparation (NOP) of the EIR in a letter dated October 6, 2023.

CDFW is submitting comments on the EIR to inform the City, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Lake and Streambed Alteration (LSA) Agreement, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

PROJECT DESCRIPTION SUMMARY

Proponent: Anthony Curci, Kortum Ranch, LLC

Objective: The Project would subdivide four existing parcels totaling 30 acres into 20 individual lots ranging from 0.40 acres to 6.29 acres accommodating single-family residences ranging from approximately 2,500 to 4,500 square feet. The Project includes on-site road and utility improvements, construction of retaining walls, and off-site improvements on Kortum Canyon Road between the Project site and the intersection at Foothill Boulevard, as well as Terrace Drive. The proposed subdivision will allow for

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future construction of 20 single-family detached homes and ancillary improvements. The Project will result in the removal of approximately 20 native trees.

Location: The Project site is located at approximately 38.57425° N and -122.58413° W in the southeast portion of the City of Calistoga, adjacent to the southern city limit, at 500 Kortum Canyon Road on four parcels (APNs 011-290-007; -038; - 039; and a remainder lot (formerly 011-310-023)) totaling approximately 30 acres; in the City of Calistoga, CA 94515, Napa County.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in “take” of plants or animals listed or candidate species under CESA, either during construction or over the life of the Project. **The Project has the potential to impact northern spotted owl (*Strix occidentalis caurina*, NSO), CESA listed as threatened species, as further described below.** Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain an ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, and 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency’s FOC does not eliminate the Project proponent’s obligation to comply with CESA.

Lake and Streambed Alteration

An LSA Notification, pursuant to Fish and Game Code section 1600 et. seq. is required for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. **Thank you for including Mitigation Measure BIO-8 in the EIR, which requires the Project to obtain an LSA Agreement for impacts to unnamed streams and riparian vegetation within the Project area.** Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to LSA notification requirements. CDFW, as a Responsible Agency under CEQA, would

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consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

Raptors and Other Nesting Birds

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below and in **Attachment 1** to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

I. Environmental Setting and Related Impact Shortcoming

MANDATORY FINDING OF SIGNIFICANCE. Does the Project have potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?

AND

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?

COMMENT 1: Northern Spotted Owl

Issue, specific impacts, why they may occur and be potentially significant: The Project may impact NSO due to the Project's auditory or visual disturbance up to 0.25 miles away from the Project site. The Biological Resources section of the EIR states that "Forests with mature western hemlock (*Tsuga heterophylla*), Douglas-fir, redwood, ponderosa pine (*Pinus ponderosa*), and western red cedar (*Thuja plicata*) are commonly associated with NSO" (page 4.1-14). According to the *Vegetation - Napa County Update 2016* [ds2899] layer, the Project is within 0.25 miles of forest comprised of Douglas fir forest which is the same vegetation type used by the closest NSO pair to the Project (MASTEROWL #NAP0013) at 0.8 miles away and the closest nest (MASTEROWL

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#NAP0007) at 1.1 miles away (*Spotted Owl Observations* [ds704]. If NSO nests within the 0.25-mile range of potential audio or visual disturbance go undetected, NSO could be impacted by Project activities resulting in nest abandonment and loss of eggs, or reduced health and vigor and loss of young. NSO is CESA listed as a threatened species and is also listed under the federal Endangered Species Act (ESA) and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active NSO nest is disturbed by the Project, the Project may result in a substantial reduction in the number of a threatened species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommended Mitigation Measure: To reduce potential impacts to NSO to less-than-significant and comply with CESA, CDFW recommends including the following mitigation measure in the EIR.

Mitigation Measure BIO-9 Northern Spotted Owl Habitat Assessment and Surveys. A qualified biologist shall provide an assessment of potential NSO nesting habitat within the Project area and a 0.25-mile radius and obtain CDFW's written acceptance of the assessment. Alternatively, if the assessment is not completed, or if it concludes that NSO nesting habitat is present, then no Project activities within 0.25 miles of potential NSO nesting habitat shall occur between March 15 and July 31 unless a qualified biologist approved in writing by CDFW conducts NSO surveys following the USFWS' *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls*, dated (revised) January 9, 2012. Surveys shall be conducted in accordance with Section 9 of the survey protocol, *Surveys for Disturbance-Only Projects*. If breeding NSO are detected during surveys, CDFW shall be immediately notified and a 0.25-mile no-disturbance buffer zone shall be implemented around the nest until the end of the breeding season, or a qualified biologist determines that the nest is no longer active, unless otherwise approved in writing by CDFW. The Project shall obtain CDFW's written acceptance of the qualified biologist and survey report prior to Project construction occurring between March 15 and July 31 each year.

Alternate buffer zones may be proposed to CDFW after conducting an auditory and visual disturbance analysis following the USFWS guidance, *Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California*, dated October 1, 2020. Alternative buffers must be approved in writing by CDFW.

If take of NSO cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP and also consult with USFWS pursuant to the federal ESA.

ENVIRONMENTAL DATA

CEQA requires that information developed in EIRs and negative declarations be incorporated into a database which may be used to make subsequent or supplemental

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environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNDDB online field survey form and other methods for submitting data can be found at the following link: <https://wildlife.ca.gov/Data/CNDDB/Submitting-Data>. The types of information reported to CNDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDB/Plantsand-Animals>.

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish & G. Code, § 711.4; Pub. Resources Code, § 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW.

CONCLUSION

CDFW appreciates the opportunity to comment on the EIR to assist the City in identifying and mitigating Project impacts on biological resources.

If you have any questions, please contact Nicholas Magnuson, Environmental Scientist, at (707) 815-4166 or at Nicholas.Magnuson@wildlife.ca.gov; or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or Melanie.Day@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Erin Chappell
B77E9A6211EF486
Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1: Draft Mitigation and Monitoring Reporting Plan

ec: Office of Land Use and Climate Innovation (SCH No. 2023090349)

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ATTACHMENT 1

Draft Mitigation and Monitoring Reporting Plan

CDFW provides the following language to be incorporated into the Mitigation and Monitoring Program for the Project as examples of mitigation measures.

Biological Resources (BIO)			
Mitigation Measures	Description	Timing	Responsible Party
MM BIO-9	<u>Mitigation Measure BIO-9 Northern Spotted Owl Habitat Assessment and Surveys.</u> A qualified biologist shall provide an assessment of potential NSO nesting habitat within the Project area and a 0.25-mile radius and obtain CDFW's written acceptance of the assessment. Alternatively, if the assessment is not completed, or if it concludes that NSO nesting habitat is present, then no Project activities within 0.25 miles of potential NSO nesting habitat shall occur between March 15 and July 31 unless a qualified biologist approved in writing by CDFW conducts NSO surveys following the USFWS' <i>Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls</i>, dated (revised) January 9, 2012. Surveys shall be conducted in accordance with Section 9 of the survey protocol, <i>Surveys for Disturbance-Only Projects</i>. If breeding NSO are detected during surveys, CDFW shall be immediately notified and a 0.25-mile no-disturbance buffer zone shall be implemented around the nest until the end of the breeding season, or a qualified biologist determines that the nest is no longer active, unless otherwise	Prior to Ground Disturbance	Project Applicant

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	approved in writing by CDFW. The Project shall obtain CDFW’s written acceptance of the qualified biologist and survey report prior to Project construction occurring between March 15 and July 31 each year. Alternate buffer zones may be proposed to CDFW after conducting an auditory and visual disturbance analysis following the USFWS guidance, <i>Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California</i>, dated October 1, 2020. Alternative buffers must be approved in writing by CDFW. If take of NSO cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP and also consult with USFWS pursuant to the federal ESA.		
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